(6)

BEFORE THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

M.A. No. ....106../2006

APPELLANTS

1. Shri Harak Ram Sahu,
S/o - Punauram Sahu, Caste - Teli,
Aged about - 52 years, Sub-Engineer, Water Resources Sub-Division - Kondagaon, Bastar (C.G.)

2. Sub Divisional Officer, (Engineer)
Water Resources Sub-Division - Kondagaon, Bastar (C.G.).

3. Executive Engineer,
Water Resources Sub-Division - Jagdalpur, Bastar (C.G.)

4. Superintending Engineer,
Water Resources Division,
Jagdalpur, Bastar (C.G.)

5. State of Chhattisgarh,
Through: District President, Bastar, Jagdalpur (C.G.)

P.R. No. 23926
Presented by Shri ... Adv.
dated 21/2/06

VERSUS

RESPONDENTS

1. Dharmu Ram Netam,
S/o - Late Debra Ram Netam, Aged about - 55 years, Caste - Gond.

2. Smt. Phoolmati Bai Netam,
W/o - Dharmu Ram Netam, Aged about - 53 years, Caste - Gond.

Both are residents of Village - Dharli, Post - Dharli, Chowki - Makri, Thana - Kondagaon, Tahsil - Kondagaon, District - Bastar (C.G.)

MEMO OF APPEAL UNDER SECTION 30 OF THE WORKMEN'S COMPENSATION ACT

Valued at Rs. - 2,60,960/-

(Note : No Court fee is being paid on behalf of State Government as per the notification No. F-

XI-HC-78

(39)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक MACC/106 **सन् 200** 6

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	05.10.2006 Shri Akhil Agrawal, learned P.L. for the State/appellants. Heard on admission. The appellants have preferred this appeal under Section 30 of the Workmen's Compensation Act (hereinafter referred to as 'the Act') against the award dated 29.6.2006 passed by Commissioner, Workmen's Compensation, Labour Court, Jagdalpur (C.G.) whereby the learned Commissioner allowing the application of the respondents, father and mother of the deceased workman namely Ratiram, being his dependants has awarded a sum of Rs. 2,60,960/- under Section 22 of the Act. This appeal has been preferred by the appellants on the following substantial question of law: "Whether the Court below has awarded the compensation correctly by calculating the income of the deceased to be Rs. 2330/- per month whereas the prevalent rate in the particular project i.e. Stop Dam Construction at village Dharli was fixed at Rs. 58.83 per day?"	

P.T.O.

(40)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक M.A.C.C./106... **सन् 200** 6

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	Learned counsel for the appellants submits that the impugned award has been passed by the learned Tribunal by taking the monthly salary of the deceased workman Ratiram to be Rs. 2,330/- though the deceased was daily wager workman and was paid wages at the rate of Rs. 58.83 per day being the prevailing wages at the relevant period for the workmen engaged in the construction of the Stop Dam. It is further submitted that the above finding of the Tribunal is without any evidence and therefore, the above proposed substantial question of law arises for adjudication of this appeal. I have heard learned counsel for the appellants and have perused the impugned award. Learned Tribunal while deciding issue No. 2 – whether age of the deceased at the time of death was 20 years and he was earning Rs. 3,000/- per month – has recorded a finding that applicant No. 1 (respondent No. 1 herein) in his application as also in his statement on oath has stated that his son was aged 20 years at the time of death, though no certificate regarding age of the deceased has been brought on record but from perusal of the postmortem report of Ex.P/7 wherein age of the deceased is recorded as 20 years which remained unchallenged, the	

(41)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक .MAC/2/106..... **सन् 200** 6

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

age of the deceased has been assessed as 20 years at the time of his death.

So far as wages of the deceased that he was getting Rs. 100/- per day as wages is concerned, the same finds support from the statements of applicant No. 1 as also his witness namely Manuram. On the contrary, non-applicant No. 1 (appellant No. 1 herein) and his witness Harilal have stated in their statements that the labourers engaged in the construction of Stop Dam were paid wages at the rate of Rs. 58.93 per day. The learned Tribunal while dealing with this issue has recorded a finding that the non-applicants have not filed the muster roll or vouchers regarding salary of the deceased and thus, considering the monthly salary of Rs. 2,330/- of unskilled labourers fixed by the Government of Chhattisgarh for the daily paid employees/labourers working in different Govt. Departments, has assessed the monthly income of the deceased at Rs. 2,330/- and thereby determined the compensation at Rs. 2,60,960/-. The wages that the deceased was drawing at the time of his death is a question of fact and the same has been decided by the learned Tribunal to be Rs. 2,330/- and accordingly the compensation has been awarded by the impugned award and therefore, the substantial question of law proposed by the appellant

(41)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक MAC/106 **सन्** 200 6

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

age of the deceased has been assessed as 20 years at the time of his death.

So far as wages of the deceased that he was getting Rs. 100/- per day as wages is concerned, the same finds support from the statements of applicant No. 1 as also his witness namely Manuram. On the contrary, non-applicant No. 1 (appellant No. 1 herein) and his witness Harilal have stated in their statements that the labourers engaged in the construction of Stop Dam were paid wages at the rate of Rs. 58.93 per day. The learned Tribunal while dealing with this issue has recorded a finding that the non-applicants have not filed the muster roll or vouchers regarding salary of the deceased and thus, considering the monthly salary of Rs. 2,330/- of unskilled labourers fixed by the Government of Chhattisgarh for the daily paid employees/labourers working in different Govt. Departments, has assessed the monthly income of the deceased at Rs. 2,330/- and thereby determined the compensation at Rs. 2,60,960/-. The wages that the deceased was drawing at the time of his death is a question of fact and the same has been decided by the learned Tribunal to be Rs. 2,330/- and accordingly the compensation has been awarded by the impugned award and therefore, the substantial question of law proposed by the appellant

Sd/-
Dhirendra Mishra
Judge